

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF TRANSPORTATION

In the Matter of the Petition of the City of
Rogers for the Establishment of a New
Public Grade Crossing Over the
Burlington Northern Santa Fe Railway
Tracks at Industrial Boulevard in the City
of Rogers, Minnesota Pursuant to Minn.
Stat. § 219.072

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**RECOMMENDATION OF
DISMISSING MATTER
WITHOUT PREJUDICE**

In the Matter of the Petition of the
Burlington Northern Santa Fe Railway
Company Pursuant to Minn. Stat. §
219.074 for the Vacation of the Hynes
Road Crossing (USDOT No. 095660Y) in
the City of Rogers, Minnesota, or in the
Alternative, for the Consolidation of the
Hynes Road Crossing With a Proposed
Industrial Boulevard Crossing

In the Matter of the Complaint of the
Burlington Northern Santa Fe Railway
Company Pursuant to Minn. Stat. §
219.39 With Respect to the Hynes Road
Crossing (USDOT No. 095660Y) in the
City of Rogers, Minnesota

The above-captioned matter is pending before Administrative Law Judge Allan W. Klein pursuant to a Notice of and Order for Hearing dated May 1, 2001, and the consolidation of another complaint by order of the ALJ on December 20, 2001.

Glenn Olander-Quamme, Attorney at Law, Spence, Ricke, Sweeney & Gernes, Suite 600, Degree of Honor Building, 325 Cedar Street, St. Paul, Minnesota 55101, represents the Burlington Northern Santa Fe Railway Company (BNSF). Robert J. Miller, Attorney at Law, Miller Law Firm P.A., 4900 Highway 169 North, New Hope, MN 55428, represents the City of Rogers (City).

On November 3, 2004, BNSF filed a stipulation between the City and BNSF that this matter be Dismissed Without Prejudice.

Based upon all the files and proceedings herein, the Administrative Law Judge makes the following:

RECOMMENDATION

That this matter be **DISMISSED WITHOUT PREJUDICE.**

Dated this 4th day of November 2004.

S/ Allan W. Klein

ALLAN W. KLEIN
Administrative Law Judge